

REMARKS

Claims 5-12 are pending in the present application.

The rejection of Claims 5-8 under 35 U.S.C. §102(b) over Phillips et al in view of Integrated Enzyme Database, is respectfully traversed.

The Examiner alleges that the “strain *Escherichia coli* LA-9 clearly produces L-glutamic acid which is collected from the culture.” Applicants disagree.

At the outset, Applicants submit that when an Examiner maintains that there is an implicit teaching or suggestion in the prior art, “the Examiner should indicate where (page and line or figure) such a teaching or suggestion appears in the prior art.” (*Ex parte Jones*, 62 USPQ2d 1206, 1208 (Bd. Pat. App. & Inter. 2001). However, the Examiner fails to provide any support for the foregoing conclusion or to provide any indication as to where Phillips et al discloses or suggests the same.

Moreover, Applicants submit that there is good reason for the Examiner’s failure to indicate where a teaching or suggestion appears in Phillips et al for the collection of L-glutamic acid from the culture. This reason is that at no point do Phillips et al disclose or suggest collection of L-glutamic acid from the culture. Thus, Phillips et al do not anticipate the claimed invention.

At best, it could be asserted that the harvesting of *Escherichia coli* in Phillips et al corresponds to the collection of L-glutamic acid. However, this assertion is simply not supported by the facts of the present case or the disclosure of Phillips et al. Further, it is well known that the amount of L-glutamic acid produced by an E. coli cell is only that which is sufficient to survive (i.e., basal production). Therefore, the skilled artisan would appreciate

that the mere harvesting of cells is not the collection of L-glutamic acid from the culture as presently claimed.

In view of the foregoing, this ground of rejection should be withdrawn. An action to this effect is requested.

Applicants submit that the present application is now in condition for allowance.
Early notification of such action is earnestly solicited.

Respectfully submitted,

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